

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE BANK OF AMERICA CORP. :  
SECURITIES, DERIVATIVE, AND :  
EMPLOYMENT RETIREMENT INCOME :  
SECURITY ACT (ERISA) LITIGATION :

- - - - -x

THIS DOCUMENT RELATES TO :  
ALL DERIVATIVE ACTIONS :

- - - - -x

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 7/29/09

CONSOLIDATION ORDER

Master File  
No. 09 MDL 2058 (DC)

**CHIN, District Judge**

WHEREAS, the following captioned shareholder derivative actions (the "Derivative Actions") are or were pending in this Court against officers and directors of Bank of America Corp. and other parties, alleging breaches of fiduciary duty and other causes of action:

- i. Louisiana Municipal Police Employees Retirement System v. Lewis, et al., No. 09 Civ. 808;
- ii. Waldman v. Lewis, et al., No. 09 Civ. 834;
- iii. Hollywood Police Officers' Retirement System v. Lewis, et al., No. 09 Civ. 1174;
- iv. Siegel v. Lewis, et al., No. 09 Civ. 1331;
- v. Smith v. Lewis, et al., No. 09 Civ. 1333;
- vi. Lehmann v. Lewis, et al., No. 09 Civ. 1434;
- vii. Young v. Lewis, et al., No. 09 Civ. 1561;
- viii. Anderson v. Lewis, et al., No. 09 Civ. 1572;
- ix. West Palm Beach Firefighters Pension Fund v. Lewis, et al., No. 09 Civ. 2581; and

x. Westmoreland County Employee Retirement System v. Lewis, et al., No. 09 Civ. 2609.

WHEREAS, the Court issued an Opinion on June 30, 2009 ordering, among other things, consolidation of the Derivative Actions, naming Louisiana Municipal Police Employees Retirement System and Hollywood Police Officers' Retirement System (collectively, the "Institutional Group") as interim lead plaintiff for the Derivative Actions, and appointing Kahn Swick & Foti, LLC ("KSF") and Saxena White P.A. ("Saxena White") as interim co-lead counsel for the Derivative Actions;

NOW THEREFORE IT IS HEREBY ORDERED THAT:

1. The Derivative Actions are consolidated for all purposes including, but not limited to, pretrial proceedings (including any discovery), and any trial (the "Consolidated Derivative Action").

2. The docket in Master File No. 09 MDL 2058 (DC) shall constitute the Master Docket for the Derivative Actions.

3. Every pleading in the Derivative Actions shall bear the following caption:

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE BANK OF AMERICA CORP.	:	
SECURITIES, DERIVATIVE, AND	:	
EMPLOYMENT RETIREMENT INCOME	:	Master File
SECURITY ACT (ERISA) LITIGATION	:	No. 09 MDL 2058 (DC)

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THIS DOCUMENT RELATES TO :

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4. When the document being filed relates to all of the Derivative Actions, the phrase "All Derivative Actions" shall appear immediately after the phrase "This Document Relates To." When a document applies to fewer than all of the Derivative Actions, the document shall list immediately after the phrase "This Document Relates To" the action or actions to which it is applicable.

5. Courtesy copies of all filings or submissions to the Court shall be provided to Judge Denny Chin.

6. A copy of this Order shall be placed in all dockets identified on pages 1-2 herein. The Clerk of this Court is directed to close each of those dockets, other than the docket in Master File No. 09 MDL 2058 (DC).

7. This Court requests the assistance of counsel in calling to the attention of the Clerk of this Court the filing or transfer of any case that might properly be consolidated with the Consolidated Derivative Action.

8. When a case that relates to or arises out of the subject matter of the Consolidated Derivative Action or any of

the Derivative Actions subsumed therein is hereafter filed in this Court or transferred here from another Court, the Clerk of this Court shall:

a. File a copy of this Order in the separate file for such action;

b. Mail a copy of this Order to the attorneys for the plaintiff(s) in the newly-filed or transferred case and to any new defendant(s) in the newly-filed or transferred case; and

c. Make appropriate entry in the Master Docket.

9. Each new shareholder derivative action that relates to or arises out of the subject matter of the Consolidated Derivative Action or any of the Derivative Actions subsumed therein which is filed in, or transferred to, this Court, shall be consolidated with the Consolidated Derivative Action, and this Order shall apply thereto, unless a party objects to consolidation, as provided herein, or any provision of this Order, within ten (10) days after the date upon which a copy of this Order is served on counsel for such party, by filing an application for relief and this Court deems it appropriate to grant such application.

10. Contact information for interim co-lead counsel in the Consolidated Derivative Action is as follows:

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11. Interim co-lead counsel for the Consolidated Derivative Action (KSF and Saxena White) are hereby vested by the Court with certain responsibilities and duties on behalf of plaintiffs in the Consolidated Derivative Action that include, without limitation, the following: 1) preparation of all pleadings; 2) direction and coordination of the briefing and argument of motions in accordance with the schedules set by the orders and rules of this Court; 3) the initiation and direction of discovery; 4) the coordination of all communications with the defendants and the Court on behalf of the plaintiffs in the Consolidated Derivative Action; 5) preparation of the Consolidated Derivative Action for trial, if required; 6) trying of the Consolidated Derivative Action, if required; and 7) the engagement in any settlement negotiations.

12. Interim co-lead counsel shall have authority to speak for plaintiffs in the Consolidated Derivative Action as to matters regarding pretrial procedure, trial, and settlement negotiations, and shall make all work assignments in such manner as to facilitate the orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive effort.

13. Interim co-lead counsel shall be responsible for coordinating all activities and appearances on behalf of the derivative plaintiffs and for the dissemination of notices and orders of the Court in the Consolidated Derivative Action. No motion, request for discovery, or other pretrial or trial proceedings will be initiated or filed by any derivative plaintiff in the Consolidated Derivative Action except through interim co-lead counsel.

14. Defendants' counsel may rely upon all agreements made with interim co-lead counsel, or any duly authorized representative of interim co-lead counsel, and such agreements will be binding on all plaintiffs in the Consolidated Derivative Action.

15. Service of pleadings on interim co-lead counsel shall constitute service of derivative plaintiffs in the Consolidated Derivative Action for all purposes.

16. The terms of this Order shall not have the effect of making any person, firm or entity a party to any action in which he, she or it has not been named, served or added as such in accordance with the Federal Rules of Civil Procedure. The

terms of this Order and the consolidation ordered herein shall not constitute a waiver by any party of any claims or defenses to any action.

17. In accordance with the MDL Order, and prior decisions and orders of this Court, the Consolidated Derivative Action shall be coordinated with the related securities and ERISA consolidated actions for pretrial purposes in the Southern District of New York before the Honorable Denny Chin. Nothing in this paragraph shall bind the parties in the Consolidated Derivative Action to any particular scheduling determinations absent further order of this Court.

SO ORDERED.

Dated: New York, New York  
July 29, 2009

  
Denny Chin  
United States District Judge